

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation)
Against:)

FOUAD MOHAMMED NOURI, M.D.)

MBC File #800-2014-003866

Physician's & Surgeon's)

Certificate No. A 64212)


Respondent.)

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "EFFECTIVE DATE" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "effective date" portion of the Decision in the above-entitled matter and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the effective date contained on the Decision Order Page in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "November 22, 2017".

Dated: November 8, 2017



Kristina D. Lawson, J.D., Chair
Panel B

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the First Amended
Accusation Against;**

FOUAD MOHAMMED NOURI, M.D.

**Physician's and Surgeon's
Certificate No. A 64212**

Respondent

Case No. 800-2014-003866

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 24, 2017.

IT IS SO ORDERED: October 26, 2017.

MEDICAL BOARD OF CALIFORNIA



**Michelle Anne Bholat, M.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-2655
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

13 FOUAD MOHAMMED NOURI, M.D.
1233 North Vermont Avenue, Suite 1
14 Los Angeles, California 90029-1749

15 Physician and Surgeon's Certificate No. A 64212,
16 Respondent.

Case No. 800-2014-003866

OAH No. 2017040575

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
22 Board of California ("Board"). She brought this action solely in her official capacity and is
23 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
24 Rebecca L. Smith, Deputy Attorney General.

25 2. Fouad Mohammed Nouri, M.D. ("Respondent") is represented in this proceeding by
26 attorney Samuel P. Plunkett, whose address is: 1522 West Glenoaks Boulevard, Suite D,
27 Glendale, California 91201.

28 ///

3. On December 25, 1997, the Board issued Physician's and Surgeon's Certificate No. A 64212 to Respondent. That license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 800-2014-003866, and will expire on September 30, 2017, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2014-003866 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on March 15, 2017. Respondent filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 800-2014-003866 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2014-003866. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

///

///

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 800-2014-003866 and that he has thereby subjected his license to disciplinary action.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2014-003866 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format ("PDF") and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

///

///

1 A professionalism program taken after the acts that gave rise to the charges in the First
2 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
3 the Board or its designee, be accepted towards the fulfillment of this condition if the program
4 would have been approved by the Board or its designee had the program been taken after the
5 effective date of this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than fifteen (15) calendar days after successfully completing the program or not
8 later than 15 calendar days after the effective date of the Decision, whichever is later.

9 3. PROHIBITED PRACTICE. During probation, Respondent's practice shall be limited
10 to a general primary care practice including health promotion, disease prevention, health
11 maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illnesses
12 with referrals to specialists when a higher level of care is necessary.

13 After the effective date of this Decision, all patients being treated by the Respondent shall be
14 notified that the Respondent's practice is limited to a general primary care practice including
15 health promotion, disease prevention, health maintenance, counseling, patient education,
16 diagnosis and treatment of acute and chronic illnesses with referrals to specialists when a higher
17 level of care is necessary. Any new patients must be provided this notification at the time of their
18 initial appointment.

19 Respondent shall maintain a log of all patients to whom the required oral notification was
20 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
21 medical record number, if available; 3) the full name of the person making the notification; 4) the
22 date the notification was made; and 5) a description of the notification given. Respondent shall
23 keep this log in a separate file or ledger, in chronological order, shall make the log available for
24 immediate inspection and copying on the premises at all times during business hours by the Board
25 or its designee, and shall retain the log for the entire term of probation.

26 4. PROHIBITED PRACTICE. During probation, Respondent shall not practice or have
27 any ownership interests in any medical day spas; offer any traditional, complimentary, or
28 alternative health practices and treatments in any medical day spa-like settings; perform any

1 cosmetic procedures, including but not limited to Intense Pulse Light (IPL) treatments,
2 acupuncture, liposuction, laser skin therapy, facial fillers, permanent hair removal and
3 phototherapy facials.

4 5. PROHIBITED PRACTICE. During probation, Respondent shall not supervise any
5 registered nurses, nurse practitioners, physician assistants or aestheticians.

6 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision,
7 Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief
8 of Staff or the Chief Executive Officer at every hospital where privileges or membership are
9 extended to Respondent, at any other facility where Respondent engages in the practice of
10 medicine, including all physician and locum tenens registries or other similar agencies, and to the
11 Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage
12 to Respondent. Respondent shall submit proof of compliance to the Board or its designee within
13 15 calendar days.

14 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

15 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
16 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
17 advanced practice nurses.

18 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
19 governing the practice of medicine in California and remain in full compliance with any court
20 ordered criminal probation, payments, and other orders.

21 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
22 under penalty of perjury on forms provided by the Board, stating whether there has been
23 compliance with all the conditions of probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
25 of the preceding quarter.

26 ///

27 ///

28 ///

1 10. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021(b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
12 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
13 facility.

14 License Renewal

15 Respondent shall maintain a current and renewed California physician's and surgeon's
16 license.

17 Travel or Residence Outside California

18 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
19 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
20 (30) calendar days.

21 In the event Respondent should leave the State of California to reside or to practice,
22 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the
23 dates of departure and return.

24 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

27 ///

28 ///

1 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting
3 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return
4 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine
5 as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours
6 in a calendar month in direct patient care, clinical activity or teaching, or other activity as
7 approved by the Board. If Respondent resides in California and is considered to be in non-
8 practice, Respondent shall comply with all terms and conditions of probation. All time spent in
9 an intensive training program which has been approved by the Board or its designee shall not be
10 considered non-practice and does not relieve Respondent from complying with all the terms and
11 conditions of probation. Practicing medicine in another state of the United States or Federal
12 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction
13 shall not be considered non-practice. A Board-ordered suspension of practice shall not be
14 considered as a period of non-practice.

15 In the event Respondent's period of non-practice while on probation exceeds eighteen (18)
16 calendar months, Respondent shall successfully complete the Federation of State Medical Boards'
17 Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment
18 program that meets the criteria of Condition 18 of the current version of the Board's "Manual of
19 Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of
20 medicine.

21 Respondent's period of non-practice while on probation shall not exceed two (2) years.

22 Periods of non-practice will not apply to the reduction of the probationary term.

23 Periods of non-practice for a Respondent residing outside of California will relieve
24 Respondent of the responsibility to comply with the probationary terms and conditions with the
25 exception of this condition and the following terms and conditions of probation: Obey All Laws;
26 General Probation Requirements; Quarterly Declarations.

27 ///

28 ///

1 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
2 obligations (e.g., restitution, probation costs) not later than one hundred twenty (120) calendar
3 days prior to the completion of probation. Upon successful completion of probation,
4 Respondent's certificate shall be fully restored.

5 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
6 of probation is a violation of probation. If Respondent violates probation in any respect, the
7 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
8 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
9 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
10 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
11 be extended until the matter is final.

12 15. LICENSE SURRENDER. Following the effective date of this Decision, if
13 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
14 the terms and conditions of probation, Respondent may request to surrender his license. The
15 Board reserves the right to evaluate Respondent's request and to exercise its discretion in
16 determining whether or not to grant the request, or to take any other action deemed appropriate
17 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
18 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
19 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
20 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
21 application shall be treated as a petition for reinstatement of a revoked certificate.

22 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
23 with probation monitoring each and every year of probation, as designated by the Board, which
24 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
25 California and delivered to the Board or its designee no later than January 31 of each calendar
26 year.

27 ///

28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Samuel P. Plunkett. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.


7
8 DATED: 08-08-2017



9 FOUAD MOHAMMED NOURI, M.D.
10 Respondent

11 I have read and fully discussed with Respondent Fouad Mohammed Nouri, M.D. the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14
15 DATED: 08-08-2017


16 SAMUEL P. PLUNKETT
17 Attorney for Respondent


18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Medical Board of California.

21 Dated: August 11, 2017

22 Respectfully submitted,

23 XAVIER BECERRA
24 Attorney General of California
25 ROBERT MCKIM BELL
26 Supervising Deputy Attorney General


27 REBECCA L. SMITH
28 Deputy Attorney General
Attorneys for Complainant

LA2016503777

Exhibit A

First Amended Accusation No. 800-2014-003866

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-2655
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 800-2014-003866

12 FOUAD MOHAMMED NOURI, M.D.
13 1233 North Vermont Avenue, Suite 1
14 Los Angeles, California 90029-1749

FIRST AMENDED ACCUSATION

15 Physician and Surgeon's Certificate No. A 64212,
16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") brings this First Amended Accusation solely
22 in her official capacity as the Executive Director of the Medical Board of California, Department
23 of Consumer Affairs ("Board").

24 2. On December 25, 1997, the Board issued Physician's and Surgeon's Certificate
25 number A 64212 to Fouad Mohammed Nouri, M.D. ("Respondent"). That license was in full
26 force and effect at all times relevant to the charges brought herein and will expire on September
27 30, 2017, unless renewed. On November 8, 2016, an Order was issued in *The People of the State*
28 *of California v. Fouad Mohammed Nouri*, Los Angeles County Superior Court, Case No.

1 6AR10922 by Upinder S. Kalra, Judge Presiding. Under the Order, as a condition of bail,
2 Respondent's license is restricted, effective November 8, 2016, as follows:

3 a. Until the completion of the criminal proceeding, Respondent shall only practice
4 medicine at 1233 North Vermont Avenue, Suite 1, Los Angeles, California 90029 and his practice
5 shall be limited to a general primary care practice including health promotion, disease prevention,
6 health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic
7 illnesses with referrals to specialists when a higher level of care is necessary.

8 b. Further, until the completion of the criminal proceeding, Respondent shall not:

- 9 • practice or have any ownership interests in any medical day spas;
- 10 • offer any traditional, complimentary, or alternative health practices and treatments
11 in any medical day spa-like settings;
- 12 • perform any cosmetic procedures, including but not limited to Intense Pulse Light
13 (IPL) treatments, acupuncture, liposuction, laser skin therapy, facial fillers,
14 permanent hair removal and phototherapy facials;
- 15 • supervise any registered nurses, nurse practitioners, physician assistants or
16 aestheticians;
- 17 • engage in any unprofessional conduct as alleged in the criminal complaint.

18 JURISDICTION

19 3. This First Amended Accusation is brought before the Board under the authority of the
20 following laws. All section references are to the Business and Professions Code ("Code") unless
21 otherwise indicated.

22 4. Section 2227 of the Code states:

23 "(a) A licensee whose matter has been heard by an administrative law judge of the Medical
24 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
25 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
26 action with the board, may, in accordance with the provisions of this chapter:

27 "(1) Have his or her license revoked upon order of the board.

28 ///

1 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
2 order of the board.

3 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
4 order of the board.

5 “(4) Be publicly reprimanded by the board. The public reprimand may include a
6 requirement that the licensee complete relevant educational courses approved by the board.

7 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
8 the board or an administrative law judge may deem proper.

9 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
10 review or advisory conferences, professional competency examinations, continuing education
11 activities, and cost reimbursement associated therewith that are agreed to with the board and
12 successfully completed by the licensee, or other matters made confidential or privileged by
13 existing law, is deemed public, and shall be made available to the public by the board pursuant to
14 Section 803.1.”

15 5. Section 2234 of the Code, states:

16 “The board shall take action against any licensee who is charged with unprofessional
17 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
18 limited to, the following:

19 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
20 violation of, or conspiring to violate any provision of this chapter.

21 “...”

22 6. Section 2236 of the Code states:

23 “(a) The conviction of any offense substantially related to the qualifications, functions, or
24 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
25 chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction
26 occurred.

27 ///

28 ///

1 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the
2 Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or
3 misdemeanor immediately upon obtaining information that the defendant is a licensee. The
4 notice shall identify the licensee and describe the crimes charged and the facts alleged. The
5 prosecuting agency shall also notify the clerk of the court in which the action is pending that the
6 defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds
7 a license as a physician and surgeon.

8 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
9 after the conviction, transmit a certified copy of the record of conviction to the board. The
10 division may inquire into the circumstances surrounding the commission of a crime in order to fix
11 the degree of discipline or to determine if the conviction is of an offense substantially related to
12 the qualifications, functions, or duties of a physician and surgeon.

13 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
14 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
15 shall be conclusive evidence of the fact that the conviction occurred.”

16 7. Section 490 of the Code states:

17 “(a) In addition to any other action that a board is permitted to take against a licensee, a
18 board may suspend or revoke a license on the ground that the licensee has been convicted of a
19 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
20 or profession for which the license was issued.

21 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
22 discipline a licensee for conviction of a crime that is independent of the authority granted under
23 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
24 of the business or profession for which the licensee's license was issued.

25
26 ¹ California Business and Professions Code section 2002, as amended and effective January 1,
27 2008, provides that, unless otherwise expressly provided, the term “board” as used in the State Medical
28 Practice Act (Cal. Bus. & Prof. Code, §§§§ 2000, et seq.) means the “Medical Board of California,” and
references to the “Division of Medical Quality” and “Division of Licensing” in the Act or any other
provision of law shall be deemed to refer to the Board.

1 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
4 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
5 made suspending the imposition of sentence, irrespective of a subsequent order under the
6 provisions of Section 1203.4 of the Penal Code.

7 “(d) The Legislature hereby finds and declares that the application of this section has been
8 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
9 554, and that the holding in that case has placed a significant number of statutes and regulations
10 in question, resulting in potential harm to the consumers of California from licensees who have
11 been convicted of crimes. Therefore, the Legislature finds and declares that this section
12 establishes an independent basis for a board to impose discipline upon a licensee, and that the
13 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change
14 to, but rather are declaratory of, existing law.”

15 8. California Code of Regulations, title 16, section 1360, states:

16 “For the purposes of denial, suspension or revocation of a license, certificate or permit
17 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
18 considered to be substantially related to the qualifications, functions or duties of a person holding
19 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
20 evidences present or potential unfitness of a person holding a license, certificate or permit to
21 perform the functions authorized by the license, certificate or permit in a manner consistent with
22 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
23 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
24 violation of, or conspiring to violate any provision of the Medical Practice Act.”

25 9. Section 2264 of the Code states:

26 “The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person
27 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any

28 ///

1 other mode of treating the sick or afflicted which requires a license to practice constitutes
2 unprofessional conduct.”

3 10. Section 2051 of the Code states:

4 “The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or
5 upon human beings and to sever or penetrate the tissues of human beings and to use any and all
6 other methods in the treatment of diseases, injuries, deformities, and other physical and mental
7 conditions.”

8 11. Section 2052 of the Code states:

9 “(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who
10 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or
11 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,
12 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition
13 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
14 certificate as provided in this chapter or without being authorized to perform the act pursuant to a
15 certificate obtained in accordance with some other provision of law is guilty of a public offense,
16 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to
17 subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not
18 exceeding one year, or by both the fine and either imprisonment.

19 “(b) Any person who conspires with or aids or abets another to commit any act described in
20 subdivision (a) is guilty of a public offense, subject to the punishment described in that
21 subdivision.

22 “(c) The remedy provided in this section shall not preclude any other remedy provided by
23 law.”

24 12. The Decision In the Matter of the Accusation against Joseph Basile, M.D., issued by
25 the Medical Board of California, and designated “Precedential Decision” pursuant to Government
26 Code section 11425.60 holds that Intense Pulse Light (IPL) and Laser Treatment fall within the
27 ambit of Code sections 2051 and 2052.

28 ///

FACTUAL SUMMARY

13. During all times relevant to this First Amended Accusation, Respondent jointly held a business license for Zena Med Spa, located at 4321 South Sepulveda Boulevard, Culver City, California 90230, with Mikhael Ayad Mikhael.

14. Zena Med Spa was a day spa which offered Intense Pulse Light (IPL) treatments to patients. IPL must be performed by a licensed doctor or under a licensed doctor's supervision; however, no doctor was present at the Zena Med Spa treating or supervising the treatment of patients. Instead, Respondent Nouri used his medical license to profit from abdicating his responsibility to supervise medical treatment rendered to Zena Day Spa patients.

15. On December 9, 2016, in proceedings entitled *The People of the State of California v. Fouad Mohammed Nouri*, case number 6AR10922, in the Los Angeles Superior Court, Respondent, upon his plea of no contest, was found guilty and convicted of aiding and abetting the unlicensed practice of medicine, in violation of Business and Professions Code section 2052, subdivision (b). Respondent was placed on Formal Diversion for thirteen (13) months, agreeing to the following terms and conditions:

- A. Perform forty (40) days of community service;
- B. Complete an ethics course;
- C. Not practice any medicine until the community service and ethics course are completed;
- D. Continue with the license restrictions, effective November 8, 2016, for the duration of diversion, as specified above in subdivisions (a) and (b) of Paragraph 2, and not have any clerical employees except one secretary.
- E. Return to Court as Ordered.

16. The circumstances leading to Respondent's conviction are as follows:

Between January 1, 2015 and April 28, 2016, Respondent, in violation of Business and Professions Code section 2052, subdivision (b), allowed unlicensed individuals to practice medicine at Zena Med Spa. By allowing unlicensed individuals to perform medical treatments without supervision, he placed numerous patients at risk.

1 **Undercover Operation at Zena Day Spa**

2 17. On July 30, 2015, an undercover operation was conducted at Zena Day Spa by
3 Investigators J.G. and A.G. A.G. presented for a laser hair removal consultation. A.G. was seen
4 by purported nurse R.A. who indicated that she alone performs the consultation and the IPL
5 procedure. The IPL laser machine is used to perform the laser hair removal. Following the
6 consultation, A.G. spoke to the front office person regarding the cost and scheduling of the
7 procedure.

8 **Patient V.C.'s Care and Treatment at Zena Day Spa**

9 18. Patient V.C. received IPL at Zena Day Spa on May 18, 2013 by a purported
10 registered nurse, D.B. Patient V.C. was not seen by a physician or nurse practitioner at Zena Day
11 Spa at any time prior to the May 18, 2013 IPL treatment.

12 19. Patient V.C. next received IPL at Zena Day Spa on June 8, 2013 by a purported
13 registered nurses, D.B. and J.P. As part of J.P.'s training, she observed D.B. perform the IPL
14 treatment on Patient V.C.'s left side of her face. J.P. then performed the IPL treatment on the
15 right side of Patient V.C.'s face. Patient V.C. was not seen by a physician or nurse practitioner at
16 Zena Day Spa at any time prior to the June 8, 2013 IPL treatment.

17 20. Following the June 8, 2013 IPL treatment, Patient V.C. suffered blistering on the
18 lower right side of her chin. The blistering resolved without any scarring or markings.

19 21. Patient V.C. received IPL treatment at Zena Day Spa on June 28, 2013 by a purported
20 registered nurse, J.P.; Patient V.C. was not seen by a physician or nurse practitioner at Zena Day
21 Spa at any time prior to the June 28, 2013 IPL treatment.

22 22. On the evening of June 28, 2013, Patient V.C. developed large blisters below her
23 right eye and around her left cheek and jaw area. She experienced extreme facial swelling and
24 called Zena Med Spa on July 1, 2013 to complain about her reaction. At that time, Mikhael
25 Ayad Mikhael advised Patient V.C. to see Respondent, whom she had never treated with
26 previously.

27 ///

28 ///

1 23. Patient V.C. presented to Respondent on or about July 5, 2013 at which time he told
2 her that she had burns. He prescribed Silver Sulfadiazine Cream and instructed her to apply it to
3 the burns.

4 24. In September 2013, Patient V.C. presented to dermatologist Dr. M.L. who diagnosed
5 her with third degree burns and a hypo pigmented scar.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Crime – Aiding and Abetting the Unlicensed Practice of Medicine)**

8 25. By reason of the facts set forth above in paragraphs 13 through 17, Respondent is
9 subject to disciplinary action pursuant to sections 2234, subdivision (a), 2236, subdivision (a) and
10 2264 of the Code and California Code of Regulations, title 16, section 1360 in that he was
11 convicted of an offense substantially related to the qualifications, functions, or duties of a
12 physician and surgeon.

13 26. Respondent's acts and/or omissions set forth in paragraphs 13 through 17 above,
14 whether proven individually, jointly, or in any combination thereof, constitute the conviction of
15 an offense substantially related to the qualifications, functions, or duties of a physicians and
16 surgeon in violation of unprofessional conduct by aiding or abetting of any unlicensed person to
17 engage in the practice of medicine in violation of sections 2234, subdivision (a), 2236,
18 subdivision (a) and 2264 of the Code and California Code of Regulations, title 16, section 1360.
19 Therefore, cause for discipline exists.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 27. By reason of the facts set forth above in paragraphs 13, 14 and 17 through 24,
23 Respondent is subject to disciplinary action pursuant to section 2234, of the Code, by engaging in
24 unprofessional conduct by aiding or abetting unlicensed person(s) to engage in the practice of
25 medicine.

26 28. Respondent's acts and/or omissions set forth in paragraphs 13, 14 and 17 through 24
27 above, whether proven individually, jointly, or in any combination thereof, constitute
28 ///

1 unprofessional conduct by aiding or abetting of any unlicensed person to engage in the practice of
2 medicine in violation of section 2234 of the Code. Therefore, cause for discipline exists.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Aiding and Abetting Unlicensed Practice)**

5 29. By reason of the facts set forth above in paragraphs 13, 14 and 17 through 24,
6 Respondent is subject to disciplinary action pursuant to section 2264, of the Code, by aiding or
7 abetting unlicensed person(s) to engage in the practice of medicine.

8 30. Respondent's acts and/or omissions set forth in paragraphs 13, 14 and 17 through 24
9 above, whether proven individually, jointly, or in any combination thereof, constitute aiding or
10 abetting of any unlicensed person to engage in the practice of medicine in violation of section
11 2264 of the Code. Therefore, cause for discipline exists.

12 **PRAYER**

13 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Medical Board of California issue a decision:


15 1. Revoking or suspending Physician's and Surgeon's Certificate number A64212,
16 issued to Fouad Mohammed Nouri, M.D.;

17 2. Prohibiting him from supervising registered nurses, nurse practitioners, physician
18 assistants or aestheticians;

19 3. If placed on probation, ordering him to pay the Medical Board of California the cost
20 of probation monitoring; and

21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: March 15, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

24
25
26
27 LA2016600397
28